

REMARKS

This case has been carefully reviewed and analyzed in view of the Final Official Action dated February 28, 2006. Responsive to the rejections made by the Examiner in the Official Action, the claims are now amended for further prosecution.

Claims 1, 5, and 6 were rejected under 35 U.S.C 102(e) as being anticipated by Chan '422. This rejection is respectfully traversed.

No New Issue is Raised. Claim 1, now the only independent claim, is amended to recite that the first channel portion "consists of" a plurality of channels, where previously it recited that the first channel portion "has" a plurality of channels. The previous language was legally ambiguous—it could have meant either "consists of" or "includes," but it could not have meant anything else—there are no other legally recognized options for claim interpretation, other than "consists of" and "includes" (or, "comprises").

It appears that the Examiner took¹ the word "has" in claim 1 to exclude the case of meaning "includes," because the Examiner treated claim 7 differently from claim 1 on the basis of "includes" occurring in claim 7 (Action at page 4, line 4 of ¶3).

Thus, the Examiner appears to have considered "has" to exclude the meaning of "includes." By implication, the meaning of "has" must mean "consists of" and this meaning was therefore inherent in claim 1, insofar as claim 1 was definite. As there is no indefiniteness rejection, claim 1 must be considered to be definite, and therefore the meaning of the claim as interpreted by the Examiner is unchanged: it meant *consists of* before, and it means *consists of* now. Thus, no new issue is raised by the amendment to claim 1.

Claim 8. Claim 8 is dependent and raises no new issue if claim 1 is allowable. Therefore entry and consideration of claim 1 is requested.

What the Claimed Filter Is. As now more explicitly recited (with "consists of" in the claim), the meaning is unambiguous: the filter *is* the channel openings, because the claimed

¹ For the record, this interpretation is respectfully traversed. MPEP § 2111.03 states that "phrases such as 'having' must be interpreted in light of the specification to determine whether open or closed language is intended," and the Applicant believes that the drawing and other disclosure make it very clear that "has" should have been interpreted to mean that the filter *is* the channel openings, contrary to what appears to be the Examiner's interpretation.

openings are what have the claimed widths for filtering. Other filters are excluded. The clarification of changing "has" to "consists of" therefore overcomes the Chan reference, because Chan shows a channel that is *not* a filter. Chan's filters 402, 502, are "porous membranes" rather than channels (§[0025]).

Koehler also discloses the use of porous filters, called "frits" (col. 1, line 51 and col. 4, line 56), for example, frit 226 in Fig. 3B (col. 7, line 41). There is no disclosure of filtering by channels in either reference.

Claim 4 was also rejected over Chan, and claim 7 was rejected over Koehler. Claim 7 now depends from claim 1, and these rejections are moot if claim 1 is allowed.

Entry and allowance are requested.

Respectfully submitted,

April 28, 2006
Date

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